

REMARKS

Claims 12 to 35 are currently pending in the present application.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 12 to 14 and 16 to 35 were rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent Application No. 2003/0195676 ("Kelly"), in view of U.S. Patent No. 7,301,536 ("Ellenby").

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claim 12 includes the features of "**non-driving-related functions that are implemented in a second computer** of the at least two computers, and at least one driving-related function is temporarily distributed to the second computer [that otherwise handles **non-driving-related functions**] for execution."

The Office Action concedes that Kelly does not disclose or suggest this feature (at pg. 2), but it nevertheless conclusorily asserts that Ellenby somehow supposedly discloses a

computer system in a vehicle where at least one driving related function is temporarily distributed to a second computer for execution (at col. 6, lines 59-64).

Even if this were the case (which is not conceded), this is not believed to be the same as the presently claimed subject matter in which at least one driving-related function is temporarily distributed to the second computer [that otherwise handles **non-driving-related functions**] for execution.

Thus, for example, the cited portion of Ellenby states that: “**3D graphics processor 116** is used to off load time-consuming graphics operations from the CPU. Although all functions could be implemented in the main CPU, that would consume a substantial amount of the power of present generation of CPUs, leaving little power for other tasks. Graphics processor 116 receives image information from Zoom Video bus 106.” *As is clear from the cited text, graphics processor 116 is not a second computer that otherwise handles non-driving-related functions as in the presently claimed subject matter.*

Therefore, the Office Action has not shown that the reference discloses the use of a second computer that is already performing other non-driving related functions to supplement the computing power of the first computer, since it only indicates that “3D graphics processor 116 is used to off load time-consuming graphics operations from the CPU.”

Accordingly, the CPU and 3D graphics processor of Ellenby only handle driving related functions and the function of the 3D graphics processor is apparently only to support the first CPU and not to independently perform non-driving-related functions as in the presently claimed subject matter.

Thus, contrary to the conclusory assertions in the Office Action, one skilled in the art would not be motivated to include a second computer that is already performing other non-driving related functions to supplement the computing power of the first computer based on the Ellenby reference.

Claims 13, 14 and 16 to 22 depend from claim 12, and they are therefore allowable for the same reasons as claim 12 as explained above.

Claim 23 includes features like those of claim 12, and it is therefore allowable for essentially the same reasons as claim 12 as explained above, as are its dependent claims 24 to 32.

Claims 33 and 34 include features like those of claim 12, and they are therefore allowable for essentially the same reasons as claim 12 as explained above.

Furthermore, claim 35 includes the features in which “the first one of the at least two computers is connected to **the first graphics processor**, wherein the second one of the at least two computers is connected to the **second graphics processor**” and in which “the first one of the at least two computers **is a closed system**, the second one of the at least two computers **is an open system**, and the open system permits a user to make changes to a software program or to a configuration.”

In this regard, the Office Action (at pg. 12) conclusorily asserts that these features are somehow supposedly disclosed by the Kelly reference. In fact, however, the assertion regarding the “graphics processors” feature asserts that Kelly somehow discloses that “the computers are connected to the graphics processor”. Even if this were the case (which is not conceded), this is not believed to be the same as the presently claimed subject matter in which the computers are connected to **first and second graphics processors**, as provided for in the context of the presently claimed subject matter.

In particular, the assertion (regarding the feature of an “open system permitting a user to make changes to a software program or to a configuration”) conclusorily asserts that Kelly somehow shows in its Figs. 2-3 element 18 (which is considered as closed) and elements 16 and 17 (which are considered as open and “known for user’s manipulation of any form of fashion etc.”). *However, any review of the Kelly reference makes clear that there is no disclosure or suggestion regarding a user being able to “make changes to a software program or to a configuration” of element 16 (Cellular Telephone) or element 17 (Global Position System) mounted into housings 50 and 26 in the vehicle, respectively.*

It is therefore respectfully requested that the obviousness rejections be withdrawn.

Claim 15 was rejected under 35 U.S.C. 103(a) as being obvious over Kelly, in view of Ellenby, further in view of U.S. Patent No. 5,497,149 (“Fast”).

Claim 15 depends from claim 12, as presented, and it is therefore allowable for essentially the same reasons as claim 12, as presented, since the Fast reference does not cure -- and is not asserted to cure -- the critical deficiencies of Kelly and Ellenby as explained above.

It is therefore respectfully requested that the obviousness rejections be withdrawn.

As further regards all of the obviousness rejections, any Official Notice is respectfully traversed to the extent that it is maintained and it is requested that the Examiner provide specific evidence to establish those assertions and/or contentions that may be supported by the Official Notices under 37 C.F.R. § 1.104(d)(2) or otherwise. In particular, it is respectfully requested that the Examiner provide an affidavit and/or that the Examiner provide published information concerning these assertions. This is because the § 103 rejections are apparently being based on assertions that draw on facts within the personal knowledge of the Examiner, since no support was provided for these otherwise conclusory and unsupported assertions. (See also MPEP § 2144.03).

Accordingly, claims 12 to 35 are allowable.

CONCLUSION

In view of the foregoing, all of pending claims 12 to 35 are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

KENYON & KENYON LLP

Dated: 8/5/2011

By: 

Aaron C. Deditch (Reg. No. 33,865) for:
Gerard A. Messina (Reg. No. 35,952)

One Broadway
New York, NY 10004
(212) 425-7200

CUSTOMER NO. 26646

NYO1 2199077